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12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 Ms. L., et al.,

15 *Petitioners-Plaintiffs,*
16 v.

17 U.S. Immigration and Customs Enforcement
18 ("ICE"), et al.,

19 *Respondents-Defendants.*
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Case No. 18-cv-00428-DMS-MDD

Date Filed: June 6, 2019

**NOTICE OF MOTION AND
MOTION TO ALLOW
PARENTS DEPORTED
WITHOUT THEIR CHILDREN
TO TRAVEL TO THE UNITED
STATES**

1 Plaintiffs respectfully move that the Court to order the government to allow
2 21 parents who were separated from their children and deported to travel to the
3 United States to obtain an opportunity to reunify with their children, who remain in
4 the United States.

5 Plaintiffs' Motion is based on this Notice of Motion and Motion and the
6 concurrently-filed Memorandum and exhibits in support; all papers, pleadings,
7 records, and files in this case; all matters of which judicial notice may be taken; and
8 such other arguments and/or evidence as may be presented to this Court at a hearing
9 on this Motion.

1 Dated: June 6, 2019

Respectfully Submitted,

/s/Lee Gelernt

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CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2019, I electronically filed the foregoing with the Clerk for the United States District Court for the Southern District of California by using the appellate CM/ECF system. A true and correct copy of this brief has been served via the Court's CM/ECF system on all counsel of record.

/s/ Lee Gelernt

Lee Gelernt, Esq.

Dated: June 6, 2019

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14 **UNITED STATES DISTRICT COURT**
15 **SOUTHERN DISTRICT OF CALIFORNIA**

17 Ms. L., et al.,

Petitioners-Plaintiffs,

18 v.

19 U.S. Immigration and Customs Enforcement
20 ("ICE"), et al.

21 *Respondents-Defendants.*

Case No. 18-cv-00428-DMS-MDD

Date Filed: June 6, 2019

**MEMORANDUM IN SUPPORT
OF MOTION TO ALLOW
PARENTS DEPORTED
WITHOUT THEIR CHILDREN
TO TRAVEL TO THE UNITED
STATES**

INTRODUCTION

Plaintiffs respectfully request that the Court order the government to allow 21 parents who were separated from their children and deported to travel to the United States to obtain an opportunity to reunify with their children, who remain in the United States. Each parent has submitted an application under the Settlement Agreement seeking to return to the United States, and the return of each of the 21 parents can be accomplished either by enforcing the Settlement Agreement or by an order of this Court requiring the government to provide travel documents to permit return to the United States.

The 21 parents were separated from their children and deported without receiving a meaningful opportunity to seek asylum. The relief they seek is limited: they need a pathway to legally travel to the United States, where Defendants can then either provide them with a de novo credible fear interview (“CFI”) or simply place them in regular section 240 removal proceedings.

These 21 deported parents are part of the larger group of more than 470 parents deported without their children. Plaintiffs, the ACLU Steering Committee, and other NGOs carefully screened deported parents to determine which parents (1) were deprived of a meaningful opportunity to seek asylum, (2) are currently in danger, and (3) have bona fide asylum claims. Plaintiffs concluded that 51 parents fit that description and gave the 51 cases, with affidavits, to the government as part of the procedures set forth in Settlement Agreement. The government rejected all 51 applications without any individualized explanation.

Subsequently, thirty of the 51 managed to make their way to the U.S.- Mexican border and sought asylum. Notably, all 30 either passed their CFIs or were placed directly into 240 proceedings. Yet all 30 were previously rejected by the government under the settlement agreement. The remaining 21 are no different from these 30 but are stranded in their home countries, either because of the danger or prohibitive cost of undertaking the journey without travel documents, or for

1 other reasons. Had they been given a meaningful opportunity to seek asylum
 2 before being deported, they would almost certainly have passed their CFI and
 3 would have been reunified with their children in the United States under the *Ms. L.*
 4 injunction.¹

5 These parents are in serious danger in their home countries and cannot safely
 6 remain there. For the same reason, they cannot be reunited with their children in
 7 their home countries. Without further relief, these 21 parents have no meaningful
 8 redress for the injury Defendants' inflicted. They were separated from their
 9 children and then coerced or misled into losing the meaningful opportunity to seek
 10 asylum to which they were entitled. The only path they have to reunify with their
 11 children is in the United States itself. Accordingly, to obtain the *Ms. L.* relief of
 12 reunification, these 21 parents should be permitted to return to exercise their right
 13 to apply for asylum.

14 **I. Background**

15 **A. The Settlement Agreement**

16 On November 15, 2018, the Court granted final approval of the Class Action
 17 Settlement ("Settlement Agreement") of claims arising in several different lawsuits:
 18 *M.M.M. v. Sessions*, Case No. 3:18-cv-1832-DMS (S.D. Cal.), *M.M.M. v. Sessions*,
 19 Case No. 1:18-cv-1835-PLF (D.D.C.), *Ms. L. v. ICE*, Case No. 3:18-cv-428-DMS
 20 (S.D. Cal.), and *Dora v. Sessions*, Case No. 18-cv-1938 (D.D.C.).

21 The Settlement Agreement requires Defendants to review the "rare and
 22 unusual" cases "in which Plaintiffs' counsel believes the return of a particular
 23 removed Ms. L. class member may be warranted" to determine if further relief is
 24 due. Specifically, as part of that Agreement, the Parties agreed to the following
 25 language in a section entitled "The return of removed parents to the United States":
 26

27 ¹ For the Court's reference, the applications of the 21 parents seeking return are
 28 included under seal as Addendum 1, Ex. D. The applications of the 30 parents who
 have returned are included under seal as Addendum 2, Ex. E.

1 The government does not intend to, nor does it agree to, return any
 2 removed parent to the United States or to facilitate any return of such
 3 removed parents. The classes agree not to pursue any right or claim
 4 of removed parents to return to the United States other than as
 5 specifically set forth in this paragraph. Plaintiffs' counsel may raise
 6 with the government individual cases in which plaintiffs' counsel
 7 believes the return of a particular removed *Ms. L* class member may
 8 be warranted. Plaintiffs' counsel represent that they believe that such
 9 individual cases will be rare and unusual and that they have no basis
 10 for believing that such individual cases will be other than rare and
 11 unusual. Plaintiffs' counsel agree to present any such cases, including
 12 all evidence they would like considered by the government within 30
 13 days of the approval of this agreement. *In light of plaintiffs' counsel's*
representation that such cases will be rare and unusual, Defendants
agree to provide a reply to any case presented by Plaintiffs within 30
days of receiving Plaintiffs' request to consider the case. Except as
 specifically set forth herein, the classes agree that existing law,
 existing procedures, and the Court-approved reunification plan
 address all interests that such parents or their children may have.

14 Agreement at 6 (emphasis added), ECF No. 220-1. The Court understood that the
 15 Settlement Agreement “speaks to the possibility of those parents being returned to
 16 the United States” and provide that Defendants would “consider [Plaintiffs’]
 17 requests in good faith.” 11/15/18 Tr. at 41.

18 **B. Plaintiffs Presented 51 Cases to Defendants Under the Terms of the**
 19 **Agreement**

20 Plaintiffs, the ACLU Steering Committee, and NGOs thoroughly vetted the
 21 deported parents from the original *Ms. L*. class to identify parents who were
 22 deprived of a meaningful ability to seek asylum, who have bona fide asylum claims,
 23 and who cannot reunify with their children in their home countries because of the
 24 danger to them and their children. Beginning in August 2018, after the Court
 25 approved the Reunification Plan, the *Ms. L*. Steering Committee began the process
 26 of contacting each deported parent and screening them for these criteria. Herzog
 27 Dec., Ex. A ¶¶ 5-7. Volunteer attorneys then continued the work of screening
 28 cases, both by reviewing all available records and through additional phone and in-
 person interviews with deported parents in Guatemala, Honduras, and El Salvador.

1 Herzog Dec. ¶ 7; Pinheiro Dec., Ex. B ¶¶ 8-11. These attorneys also spoke to
 2 federal defenders' offices who had represented separated parents in their illegal
 3 entry prosecutions and legal services organizations to identify parents who had
 4 expressed a fear of persecution. Pinheiro Dec. ¶ 8.

5 Through this vetting process, Plaintiffs identified 51 deported parents who
 6 they believed warranted return under the Settlement.² On December 15, 2018,
 7 Plaintiffs submitted applications for return for these 51, with declarations attesting
 8 to the trauma of separation and the coercion that prevented the parent from applying
 9 for, or pursuing, legitimate asylum claims. *See generally* Pinheiro Dec., Ex. B, ¶¶
 10 12-23 (summarizing testimony of 43 applicants). Most of the parents never
 11 received a credible fear hearing, despite explaining that they feared return to their
 12 home countries. Many were actively misled by government officials to
 13 unknowingly sign away relief. Others simply gave up, because they were separated
 14 and did not think they would ever be reunited in the United States.

15 Plaintiffs explained in their submission to the government that:

16 Under the Settlement, Plaintiffs are required to submit "all evidence
 17 they would like considered by the government." As previously noted,
 18 given that the relief being sought is a renewed opportunity to apply for
 19 asylum, many details of the parents' claims for protection are not
 20 included in these declarations. Instead, the focus [is] on the ways in
 21 which these parents were denied a fair opportunity to pursue their
 22 claim to such protection.

23 . . .

24 We look forward to the Government's reply, and would request the
 25 opportunity to discuss any case the government believes does not
 26 warrant return.

27 *See* December 15, 2018 Email, attached as Ex. 1 to Galindo Dec., Ex. C.

28 On February 20, 2019,³ Defendants denied all the applications Plaintiffs

² Of this initial group of 51 parents, 4 are members of the expanded *Ms. L.* class, as their children had been released from ORR custody before June 26, 2018.

³ Defendants' deadline to respond to the applications was reset in light of the

1 submitted in a single email that stated only that the applications were “insufficient.”
2 The response provided no explanation as to what further evidence would be
3 sufficient, or what standard the Defendants used in screening these applications for
4 return. Defendants wrote:

5 As of the deadline of December 15, 2018, the Department of Justice
6 (DOJ) had received the affidavits (and, where provided, supporting
7 materials) submitted for 52 [sic] individuals (“Applicant Pool”),
8 which it subsequently provided to ICE. ICE has now reviewed all
9 materials submitted and advised that the documents submitted for the
10 Applicant Pool did not provide sufficient information to permit
11 adjudication. In keeping with the spirit of the Agreement, ICE is
offering members of the Applicant Pool the opportunity to submit
additional information in support of their respective requests for
parole.

12 See Feb. 20, 2019 Email, attached as Ex. 2 to Galindo Dec, Ex. C. Defendants
13 invited Plaintiffs to apply for further relief under the humanitarian parole process,
14 pursuant to 8 U.S.C. § 1182(d)(5). *Id.*

15 Plaintiffs asked Defendants to clarify why the applications were deemed
16 “insufficient” and how to cure that alleged insufficiency. Plaintiffs further objected
17 to Defendants’ proposal that Plaintiffs apply for parole as inconsistent with the
18 terms of the Agreement. The parole statute provides the Attorney General authority
19 to “parole [a noncitizen applying for admission] into the United States temporarily
20 under such conditions as he may prescribe only on a case-by-case basis for urgent
21 humanitarian reasons or significant public benefit. . . .” 8 U.S.C. § 1182(d)(5). But
22 the humanitarian parole process is extremely burdensome, was not referenced in the
23 Settlement, and was never mentioned to Plaintiffs when they were compiling the 51
24 affidavits. More fundamentally, the parole application process is not designed to
25 account for the unique circumstances of the government’s unlawful practice of
26 separating immigrant families, or to provide the relief to members of the *Ms. L.*
27 class to which they are specifically entitled pursuant to this action.

28 government shutdown and stay of pending *Ms. L.* deadlines.

1 Despite Plaintiffs' blanket objection to Defendants' referral to the parole
 2 process, three deported Class members who had attorneys with sufficient resources
 3 to submit parole applications did so pursuant to the government's new request.⁴
 4 Each was summarily denied without individualized explanation. Addendum 3, Ex.
 5 F at 25, 30, 31.

6 **C. Thirty Applicants Return To The United States And Are Now Reunited**
 7 **With Their Children.**

8 Thirty of the 51 applicants returned to the United States. The majority of the
 9 30 did so with the aid of lawyers. These 30 undertook the same perilous journey
 10 that they took months before, this time in order to reunify with the children who
 11 had been taken from them. *See* Pinheiro Dec. ¶¶ 23-26 (describing return and
 12 reunification of 28 deported clients). With the exception of one as yet unresolved
 13 case, Defendants either placed these parents directly in full removal proceedings
 14 and released them from detention, or, in the majority of cases, gave them new
 15 credible fear interviews. *Every parent* who received a CFI passed and was then
 16 placed into full removal proceedings. *Id.* ¶ 26. In other words, those parents whose
 17 return requests were summarily rejected by the government as "insufficient" under
 18 the settlement showed—when not misled or under coercion—that they merited
 19 release and a full asylum hearing before an immigration judge.⁵ *Id.* ¶ 27.

20 Twenty-nine of the thirty returnees have been reunified with their children.
 21 The sole exception is a mother who traveled from Central America to the Mexican
 22 border, by land, and arrived the day after her son had been deported.

23 Accordingly, only 21 deported parents of the original group of 51 remain
 24 who have not been able to make the difficult journey to the U.S.-Mexican border.
 25

26 ⁴ Excerpts from these three parole applications are included as Addendum 3, Ex. F.

27 ⁵ In one case, a parent was released from detention but has neither been provided
 28 with a new CFI nor issued a notice to appear in 240 proceedings.

II. The Twenty-One Deported Parents Should Be Allowed To Return To The United States, Either Under the Settlement Or By Court Order.

Without further relief, the right to reunify will be a hollow one for the 21 deported parents. They cannot bring their children back to face the violence and persecution that they fled. But without the ability to travel legally to the United States, they have no opportunity to present the asylum claims that they could not meaningfully present when they were previously in the United States, and separated from their children by Defendants.

The experience of the 30 parents who returned to the United States—most notably, their uniform success at credible fear hearings—underscores the bona fides of these parents’ asylum claims and the dangers that prevent reunification abroad. It also demonstrates Defendants’ failure to meaningfully review their settlement submissions. Indeed, after categorically deeming their applications “insufficient,” Defendants own officers later found their claims for asylum were legitimate.

Defendants’ family separation policy created the dual injuries these parents are facing: their separation from their children and their unlawful removal to the violence they fled. The relief they need to remedy this harm is limited: a legal path to travel back to the United States. Once in the United States, Defendants can choose what immigration process to provide them, as they did for those who already returned: either issue them Notices to Appear, or provide them with new credible fear hearings.

A. The Twenty-One Applicants Are “Rare and Unusual” Under the Settlement Agreement And Warrant Relief.

The 21 deported parents who are seeking further relief are “rare and unusual” by any definition of those terms. Plaintiffs screened hundreds of known deported Class Members to presented only those cases that meet three specific criteria: First, they present a bona fide claim for asylum; second, their asylum claim was abandoned or lost due to coercion or trauma inflicted by the family separation policy; and third, they are unable to reunify in their home country because of their

1 fear of harm to themselves and their children.⁶ Herzog Dec. ¶¶ 7-9.

2 These 21 parents' declarations and additional evidence demonstrates that
3 these three criteria are met. For example:

- 4 • B.L.S.P. traveled to the United States with her son, after she suffered
5 severe sexual abuse and they were both threatened with death. After she
6 was separated in November of 2017, she believed she would never be
7 allowed to see her son again. After her separation, she began to suffer
8 episodes of facial paralysis. Despite the trauma, she passed a credible fear
9 interview. However, she was told she would have to wait nearly a year
10 for her asylum hearing, and that she would be detained, without her child,
11 through that process. She withdrew her claim for relief on May 23, 2018,
12 and was deported on June 18, 2018. A former asylum officer describes
13 her as "one of the most traumatized and vulnerable persons that I have
14 ever interviewed." Since her deportation, she freezes in public and cannot
15 leave her house unaccompanied. *See* Application of B.L.S.P, Addendum
16 1, Ex. D at 6-10.
- 17 • D.J.M.C. came to the United States with his then four-year old son from
18 Honduras after being threatened by gangs; his brother was shot, his cousin
19 was murdered, and he feared for his life, and the life of his son. When he
20 was separated from his son, his son "cried because in Honduras police
21 take people and kill them." He was never told where his son went and
22 never spoke to his son after he was deported. Though he expressed a fear
23 of persecution in Honduras, he never received a fear hearing, and was
24 deported in June 2018. Since then, he has been living in hiding; his
25 family home has been shot at; and another relative has been murdered.
26 An assessment of his child by the Young Center states that he "remains
27 scared" and now blames his father for the separation, thinking his father
28 abandoned him. *See* Application of D.J.M.C., Addendum 1, Ex. D at 31-
42, 57-62.
- D.X.C. is from an indigenous community in Guatemala and traveled with
his eight year old child to flee a gang who had threatened him and his
family, and assaulted and tortured him. When he was separated from his
child, he was told that if he persisted in his asylum claim, he would spend
two years in detention apart from his son. He never received a credible
fear interview despite expressing a fear of return. Since his deportation,

⁶ And the deported Class Members are, of course, a subset of the overall number of more than 2700 parents who were separated.

he continues to live in hiding from the gang that threatened him. *See* Application of D.X.C., Addendum 1, Ex. D. at 71-79. His son spent over a year in an ORR shelter, because D.X.C. did not have relatives in the U.S. to sponsor his son, but also could not have his son returned to face threats. *See* Cohen Dec., Ex. G, at ¶ 12. His son was eventually released to non-family sponsors in late April, but has been struggling emotionally and psychologically in the absence of his father. *See* Cohen Dec., Ex. G, at ¶¶ 23-28 (describing continuing psychological and developmental harm to child after release to sponsors).

- O.U.R.M. fled Guatemala with his son after he and his family were targeted for assaults, death threats, and kidnappings. After separating him from his son, immigration officials repeatedly told him to sign papers in English, even though he cannot read or understand the language. Depressed, and feeling like he had no choice, he did so. At the time of his deportation, he had still not spoken to his son. The first time he spoke to him was after his deportation. Since his deportation, he has been threatened, and has had to move away from his home to protect himself and his family. *See* Application of O.U.R.M., Addendum 1, Ex. D at 126-128.

The 21 declarations reflect a consistent pattern of coercion and misinformation that accompanied the underlying trauma of separation. Parents were separated from their children without any warning or explanation.⁷ They were provided little to no information as to where their children were, or what would happen to them.⁸ They were then transferred between multiple detention centers. They started in border facilities, where they slept on the floor with dozens of other

⁷ *See, e.g.*, Appendix 1 at 104 (E.L.D.H. Application ¶5) (“officers came in and took my son while I was sleeping. I woke up and called out to my son and looked around the room, but I did not see my son. Other people in the room told me that my son was taken while I was sleeping.”); *Id.* at 112 (J.A.A. Application ¶5) (“I did not have a chance to say goodbye. I felt a weight in my chest that was so heavy I could barely breathe. I was in shock because I did not expect to be separated from my daughter.”)

⁸ *See, e.g.*, Appendix 1 at 12 (C.A.C. Application ¶10) (“I constantly asked the officers where my child was, and if he was ok; they dismissed my requests and would always answer that they didn’t know. I was desperate to find out where he was.”)

adults.⁹ All were transferred multiple times, between facilities for weeks or months, before they were deported, some without warning. Some parents never spoke to their children until after they were deported. The separation, confusion, and fear took a psychological and physical toll on the parents.¹⁰

In some cases, officials told parents that they had no right to asylum.¹¹ Other parents were told that seeking asylum would only extend their separation from their children.¹² Many signed papers given to them by officials that they could not understand simply because of confusion, coercion, or a sense of futility.¹³ Few

⁹ See, e.g., Appendix 1 at 93 (E.C.C. Application ¶6) (“I was held in a cell with about 50 other men. We were not able to bathe or brush our teeth for days, and we were not given enough food or water to be comfortable. I did not know what was happening and I had no idea where my son was”); *Id.* at 131 (R.A.R.A. Application ¶6) (“The cell where I was held was crowded with about 90 men. We slept on the floor and I was not able to bathe or brush my teeth the entire time I was held there. I felt afraid and did not know what would happen to me”).

¹⁰ See, e.g., Appendix 1 at 65 (D.P.F. Application ¶10) (“I was frustrated from feeling I could not help or protect [my daughter]. I got sick for a couple of days; my blood pressure dropped and I had to get medical attention”); *Id.* at 123-24 (M.L.D.A. Application ¶11) (a mother describes how “being separated from my daughter caused me to suffer epileptic seizures. I suffer from epilepsy, and did not have any seizures for 3 years—until I came to the detention center”).

¹¹ See, e.g., Appendix 1 at 113 (J.A.A. Application ¶7) (“The official told me there was a new policy of zero tolerance towards migrants and that they were no longer giving out asylum”); *Id.* at 137 (S.A.C. Application ¶8) (Officer “told me that there was no asylum for Central Americans in the U.S.”).

¹² See, e.g., Appendix 1 at 104 (E.L.D.H. Application ¶6) (“The officer told me that if I were to stay in the United States and fight for asylum that I could be in detention without my son for over a year.”)

¹³ See, e.g., Addendum 1 at 29 (D.J.M. Application ¶11) (describing signing document he could not read or understand because “I do not understand what other options I had and I did not think I had a choice”); *Id.* at 93 (E.C.C. Application ¶9) (“officials asked me to sign some documents in English that I could not read or understand. I do not speak or read English. They wanted me to hurry and they were very aggressive. I was afraid to ask these officials to help me understand the documents, and I felt I had no choice but to sign. I was exhausted and confused”).

1 recall being provided a fear interview, even though they fled to the United States to
2 seek asylum and expressed a fear of return to officials.

3 Absent the coercion and trauma of separation, these parents would have
4 passed their CFIs and remained in the United States, with their children. The
5 experience of the 30 parents who returned to the United States demonstrate this
6 clearly.

7 **B. The Court Should Provide Relief Either Through the Settlement**
8 **Agreement Or Ordering Parents' Return.**

9 The Court has authority to provide relief for the twenty-one parents through
10 the Settlement Agreement, or by ordering that Defendants provide parents with a
11 pathway to travel legally to the United States.

12 The Court can order Defendants to meaningfully comply with the Settlement
13 Agreement and allow the 21 class members to return, since there is no good faith
14 basis for concluding that these 21 cases do not fit the criteria. *See Nehmer v. U.S.*
15 *Dep't of Veterans' Affairs*, 494 F.3d 846, 856 (9th Cir. 2007) (“[W]hen a district
16 court incorporates the terms of a settlement agreement or a stipulation into an order,
17 it retains subject matter jurisdiction to interpret and enforce the contents of that
18 order.”). This is simply an application of the Court’s broad inherent authority “to
19 ensure obedience to [its] orders.” *F.J. Henshaw Enters., Inc. v. Emerald River*
20 *Dev., Inc.*, 244 F.3d 1128, 1136 (9th Cir. 2001).

21 Alternatively, the Court should order the relief that the parents are seeking.
22 That is fully consistent with the Court’s remedial authority to effectuate its
23 injunction and ensure a meaningful opportunity for reunification. Such relief is
24 well within the “court’s equitable powers to remedy past wrongs” and its “broad
25 discretion to fashion a remedy.” *Swann v. Charlotte-Mecklenburg Bd. of Educ.*,
26 402 U.S. 1, 14 (1971); *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 558 (9th
27 Cir. 1990). As this Court has already recognized, it has substantial “authority to
28 issue orders necessary to ensure implementation of its injunction.” *M.M.M. Dkt.*
55, at 6 (rejecting jurisdictional objections to order staying removals).

Facilitating parents' return to the United States is fully consistent with this Court's remedial authority. The Ninth Circuit has repeatedly upheld orders to return injured parties to the United States. In *Walters v. Reno*, 145 F.3d 1032 (9th Cir. 1998), for instance, the district court had ordered the government to parole removed class members into the United States, because they had been subjected to procedures that violated due process. *Id.* at 1050-51. The Ninth Circuit affirmed the return order, explaining that parole was necessary "to permit an alien to take advantage of procedures to which [he] was entitled." *Id.* at 1051. Similarly, in *Mendez v. INS*, 563 F.2d 956, 959 (9th Cir. 1977), the Ninth Circuit ordered the INS to "admit appellant into the United States [and] grant[] him the same status he held prior to his . . . deportation," because "he was deported without notice to counsel." And in *Singh v. Waters*, 87 F.3d 346, 350 (9th Cir. 1996), the Ninth Circuit ordered the government to "permit Singh to return to the United States for the purpose of appearing at a hearing before the immigration judge." *Cf. Estrada-Rosales v. INS*, 645 F.2d 819, 820-22 (9th Cir. 1981) (ordering return); *Grace v. Sessions*, 2018 WL 3812445, at *1 (D.D.C. Aug. 9, 2018) (same); *Ying Fong v. Ashcroft*, 317 F. Supp. 2d 398, 404-05, 408 (S.D.N.Y. 2004) (same); *Dennis v. I.N.S.*, No. CIV.A. 301CV279SRU, 2002 WL 295100, at *4 (D. Conn. Feb. 19, 2002) (same).

CONCLUSION

For the foregoing reasons, the Court should order Defendants to provide a pathway for the 21 deported class members to return to the United States to seek asylum.

1 Dated: June 6, 2019

Respectfully Submitted,

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/s/Lee Gelernt
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**Admitted Pro Hac Vice*

CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2019, I electronically filed the foregoing with the Clerk for the United States District Court for the Southern District of California by using the appellate CM/ECF system. A true and correct copy of this brief has been served via the Court's CM/ECF system on all counsel of record.

/s/ Lee Gelernt

Lee Gelernt, Esq.

Dated: June 6, 2019

Ex. A

1 Lee Gelernt*
2 Judy Rabinovitz*
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11
12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 Ms. L., et al.,

15 *Petitioners-Plaintiffs,*
16 v.

17 U.S. Immigration and Customs Enforcement
18 ("ICE"), et al.,

19 *Respondents-Defendants.*

Case No. 18-cv-00428-DMS-MDD

Date Filed: June 6, 2019

**DECLARATION OF STEVEN C.
HERZOG**

1 1. I make this declaration based on my personal knowledge except where I
2 have indicated otherwise. If called as a witness, I would testify competently and truthfully to
3 these matters.

4 2. I am a licensed attorney in the State of New York, and am over the age of
5 18.

6 3. I am Counsel at the law firm of Paul, Weiss, Rifkind, Wharton &
7 Garrison LLP (“Paul, Weiss”), where I maintain a practice in a broad range of areas of civil
8 litigation, with an emphasis on antitrust, intellectual property, corporate governance, securities
9 and other complex commercial matters. Throughout my career, I have also always maintained a
10 substantial pro bono practice.

11 4. In August of 2018, Paul, Weiss was asked by the American Civil Liberties
12 Union (“ACLU”) to head the Ms. L Steering Committee. Since that time, I have led the Paul,
13 Weiss effort, supervising a team of attorneys and staff at the firm.

14 5. Beginning in August of 2018, Paul, Weiss attorneys—along with
15 employees of our three Steering Committee non-profit partners (Kids in Need of Defense,
16 Women’s Refugee Commission, and Justice in Motion) —contacted by telephone (and, in some
17 cases, in person) parents identified by the government as Ms. L class members who were
18 removed from the United States following separation from their children. In all, we successfully
19 reached 365 parents.

20 6. Our initial focus as a Steering Committee was to determine the
21 preferences of parents with respect to their children: specifically, did the parent want their child
22 repatriated as soon as possible or did the parent want their child to remain in the United States to
23 pursue his or her own immigration case.

24 7. Once this immediate task was largely complete, and a settlement reached
25 among parties clarifying the options available to parents, we turned our focus to screening
26 parents for protection needs. Where it was not clear from our prior outreach, we reached out
27 again to parents to determine whether the parent was currently living in fear, and, if so, whether
28

1 they were interested in being further screened for a potential asylum claim and for potential
2 return to the United States.

3 8. For those parents living in fear and seeking potential return, we and our
4 Steering Committee partners assessed cases to identify those that presented potential asylum
5 claims and indicia of coercion during their separation from their children that prejudiced their
6 ability to present such claims. We made these preliminary determinations based on the
7 information collected from parents during phone calls between parents and attorneys and
8 employees working on behalf of the Steering Committee, and subsequently upon a review of that
9 information by a small team of attorneys at Paul, Weiss that have assisted me in leading the
10 firm's family separation effort. This smaller team has a background in asylum law and was thus
11 better positioned to make the triaging decisions required.

12 9. We referred the majority of these parents to Al Otro Lado for on-the-
13 ground assessment and, as applicable, representation. After further screening by the Steering
14 Committee, Al Otro Lado then prepared declarations on behalf of a subset of these parents,
15 which we reviewed and helped to finalize for submission.

16 10. The Steering Committee separately determined that three additional
17 parents had potential asylum claims, and prepared declarations reflecting their experiences,
18 which declarations the ACLU subsequently submitted to the government.

19 11. Five additional parents were separately represented by attorneys or
20 organizations. These individual attorneys or organizations prepared declarations and supporting
21 papers on behalf of their client parents.

22 12. The declarations and other supporting materials were all then provided to
23 the ACLU. On December 15, 2018, the ACLU submitted these materials to the government,
24 pursuant to the provisions of the Settlement Agreement filed on September 12, 2018, and
25 approved by the Court November 15, 2018, seeking an opportunity for the parents to return to
26 the United States to seek asylum and be reunited with the children.

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 5, 2019.


Steven C. Herzog

Ex. B

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15 *Attorneys for Petitioner-Plaintiff*
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11
12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 Ms. L., et al.,

15 *Petitioners-Plaintiffs,*

16 v.

17 U.S. Immigration and Customs Enforcement
18 ("ICE"), et al.,

19 *Respondents-Defendants.*

Case No. 18-cv-00428-DMS-MDD

Date Filed: June 6, 2019

**DECLARATION OF ERIKA
PINHEIRO**

1 1. I make this declaration based on my personal knowledge except where I have
2 indicated otherwise. If called as a witness, I would testify competently and
3 truthfully to these matters.

4 2. I am a U.S. licensed attorney practicing in the areas of immigration law and
5 international human rights. I am barred by the State of California and am over the
6 age of 18.

7 3. I have over sixteen years of experience in the immigration arena, including
8 over a decade of work with Central American asylum seekers. From 2011 to 2015,
9 I administered Department of Justice-funded legal access programs for immigrant
10 adults and children in ICE detention facilities, county jails, and Office of Refugee
11 Resettlement shelters, as well as managed a government-funded legal orientation
12 program for unaccompanied children following their release from government
13 custody. Previously, I managed representation programs for Unaccompanied
14 Children and oversaw completion of hundreds of cases. I have provided technical
15 assistance and training to numerous Los Angeles County agencies, Federal Public
16 Defender offices, the California State Bar, and have trained dozens of attorneys on
17 Central American asylum claims.

18 4. In 2017, I was a New America California Fellow, and my organization, Al
19 Otro Lado, has received numerous awards and commendations, including the 2018
20 Courageous Luminaries Award from the National Immigration Law Center, the
21 YWCA Pasadena 2018 Racial Justice Award, and a 2017 commendation from Los
22 Angeles County Supervisor Hilda Solis.

23 5. Since 2017, I have served as the Director of Litigation and Policy at Al Otro
24 Lado, a non-profit, binational legal services organization incorporated in
25 California. Al Otro Lado serves indigent deportees, migrants, refugees and their
26 families, principally in Los Angeles and San Diego, California, and Tijuana,
27 Mexico. Al Otro Lado's mission is to provide screening, advocacy, and legal
28 representation for individuals in immigration proceedings, to seek redress for civil

1 rights violations, and to connect deportees, refugees, and other indigent immigrants
2 with legal, mental health, medical, and social services.

3 6. Through its Border Rights Project, Al Otro Lado hosts legal orientation
4 workshops in Tijuana, Mexico, and provides representation to detained asylum
5 seekers in Southern California. We engage over 1,000 volunteers to provide legal
6 orientation to asylum seekers and monitor for rights violations on the California
7 border. Our Border Rights Project began documenting family separations at the
8 San Ysidro Port of Entry in May of 2017, and has represented dozens of parents
9 who were separated from their children.

10 7. Al Otro Lado is a transnational organization with established partnerships
11 throughout Mexico and Central America, making us uniquely suited for the task of
12 assisting parents who were separated from and deported without their children. I
13 established Al Otro Lado's Family Reunification Project in August of 2018 to
14 assist deported parents whose children remained in the United States by
15 marshalling resources to provide them with legal, medical, mental health, and other
16 services during the process of reunification.

17 8. Al Otro Lado began coordinating with the *Ms. L* Steering Committee to
18 receive referrals of class members who had been deported without their children,
19 and whose cases presented a protection concern. Al Otro Lado also received
20 referrals from Federal Public Defender officers, nonprofit legal service
21 organizations, and others. Between August and November of 2018, Al Otro Lado
22 interviewed parents who had been separated from and deported without their
23 children.

24 9. With the help of Justice in Motion, Al Otro Lado traveled to Honduras,
25 Guatemala, and El Salvador to conduct in-person interviews with parents who
26 expressed a desire to return to the United States to seek asylum and reunify with
27 their children. We worked for months with on-the-ground partners to complete
28

1 declarations, gather supporting evidence, and obtain signatures for record requests
2 and other legal documents.

3 10. Al Otro Lado gathered information to determine the reasons parents traveled
4 with their children to the United States, their situation post-deportation, and any
5 other rights violations suffered while in government custody. Al Otro Lado
6 analyzed each case to determine whether the parents had a potentially viable
7 asylum claim, whether they had been unlawfully deprived of their right to seek
8 asylum, and whether they waived reunification in the home country due to safety
9 concerns for their children.

10 11. After further screening, the ACLU submitted applications from 43 parents
11 represented by Al Otro Lado as cases warranting further relief from the
12 government.

13 12. Although our 43 clients had been apprehended at diverse points along the
14 US-Mexico border, they recounted similar facts regarding their separation and
15 deportation.

16 13. Almost 90% of the deported parents we represent who applied for further
17 relief never received a Credible Fear or Reasonable Fear Interview, even after
18 telling CBP and ICE officials multiple times that they feared return to their
19 countries. Clients processed at different Border Patrol stations and housed at
20 different ICE detention facilities reported hearing identical responses from CBP
21 and ICE officials when being denied their right to a Credible or Reasonable Fear
22 interview. Officials told our clients that “the rules had changed,” “there was no
23 more asylum for Central Americans,” and that their “children could stay” in the
24 United States, but they would be deported.

25 14. Customs and Border Protection officers only referred five of our clients for a
26 Credible/Reasonable fear interview, even though all expressed a fear of return.
27 Two parents did not pass the interview due to the severe emotional trauma of
28 separation from their children; neither had received any information about the

1 whereabouts of their child from the time of separation to the time of the interview.
2 The parents also report that unsanitary and violent conditions of detention affected
3 their ability to focus on their claims at their interviews. For example, one of the
4 fathers who did not pass his Reasonable Fear Interview witnessed a violent
5 exchange between a cellmate and an officer shortly before his interview. He
6 reports being verbally abused by officers, and seeing them drag and beat his
7 cellmate. He and many other parents report being verbally abused by CBP officers
8 and mocked for crying about being separated from their children.

9 15. Three of our clients passed their Credible/Reasonable Fear Interviews, but
10 were coerced into abandoning their claims due to the trauma of continued
11 separation. One separated mother was unable to communicate with her daughter
12 while detained, was denied bond, and received an individual hearing date almost a
13 year after she submitted her application for asylum. Another separated father
14 passed his Reasonable Fear Interview, but was told by ICE officials that he could
15 only talk to his son once per month while detained. He staged a hunger strike to
16 call attention to his situation and was punished with solitary confinement.

17 16. All of the deported parents reported being profoundly traumatized by their
18 separation from their children. All were separated from their minor children within
19 24 to 72 hours after turning themselves over to Border Patrol officials. Several
20 parents reported having their children physically ripped from their arms, including
21 a father of a six-year old boy who was threatened with violence and criminal
22 prosecution when he resisted CBP officers as they violently separated him from his
23 son. Almost all parents reported being mocked and threatened by CBP and ICE
24 officials when they asked about the whereabouts of their children. Others were told
25 that their children were being taken to change clothes or bathe, and then never saw
26 their children again.

27 17. Following their separation from their children, all of the parents report being
28 held in crowded, unsanitary conditions with little to no information about their

1 children. The deported parents described being held in freezing rooms or cages
2 with anywhere from 50 to 200 other migrants, being given very little food, and not
3 being able to bathe, brush their teeth, or lay in a bed for as long as two weeks.
4 Several parents report that they became ill due to being provided with rotten food.
5 Several report not being provided with any water, except for water from a sink
6 attached to a toilet being used by several dozen people. There were multiple
7 reports of substandard medical care, painful collective punishment, and sustained
8 verbal abuse from CBP and ICE officials. One mother reported slipping and falling
9 in a CBP facility and seriously injuring her shoulder, only to be deported days later
10 without her son and without having received any medical care. She continues to
11 require medical treatment for this injury to the present day.

12 18. Generally, the deported parents could not meaningfully communicate with
13 their children during their detention. Some reported speaking with their child once
14 or twice, while others had no communication with and no information regarding
15 their child the entire time they were detained by U.S. authorities. A few parents
16 were provided with the ORR hotline number or another ORR contact, but were
17 unable to obtain any information, if they were able to call from detention at all.
18 Several parents were separated from children with disabilities, including a father
19 separated from his deaf daughter. Several parents, in separate facilities and on
20 separate occasions, participated in or observed hunger strikes staged by parents
21 protesting the lack of information about their separated children.

22 19. In at least eight of the deported parents cases represented by AOL, the
23 parents who petitioned the government for return do not speak any Spanish and
24 were never provided with an interpreter during their time in U.S. detention. These
25 parents report being unable to understand the reasons offered for their separation
26 from their children, and unable to communicate with officials to obtain
27 information about their children. Many indigenous clients describe being
28 prosecuted for illegal entry and deported without ever having received an

1 explanation of the proceedings or deportation paperwork in their native language.
2 Two indigenous clients report being forcibly injected with medication at ICE
3 detention facilities without receiving an explanation in their native language as to
4 the nature of the medical treatment. At least six clients reported being unable to
5 read or write in any language, and not being provided an explanation of what they
6 were signing.

7 20. All of our clients were coerced, tricked, or forced into being removed from
8 the United States without their children. The few who willingly accepted
9 deportation were coerced into doing so because they were unable to effectively
10 communicate with their children while detained, or received no information about
11 their children while detained. Parents who were tricked into signing removal
12 documents were told that the United States was no longer giving asylum, or that
13 they were actually signing a document for their release. Some were threatened with
14 additional criminal prosecution and prison time if they refused to sign. At least
15 eight of our clients report being told that their child would be waiting for them on
16 the plane, or that their child would be removed with them the same day. Two
17 report having to be physically forced onto the plane by ICE officials once they
18 learned that their children would not be removed with them.

19 21. After they were deported without their children, several parents suffered
20 attempts on their lives; one father was shot and injured, another was shot at but not
21 hit, and several others were threatened with firearms or other weapons. Others
22 received direct death threats after being deported, and at least six of the parents
23 fled their home countries again almost immediately after being deported due to
24 imminent danger of persecution or death.

25 22. All of the deported parents reported that their children were deeply
26 traumatized by their separation. Several of the children suffered severe trauma-
27 related mental harm, including two children who were hospitalized for behavioral
28 health issues and one child who made multiple attempts on her life. The parents

1 also reported experiencing severe trauma-related mental illness. Almost all of the
2 parents we interviewed reported suffering symptoms such as memory loss,
3 nightmares, anxiety, depression, and intrusive memories of their traumatic
4 separation from their children. Several fathers told me on separate occasions, “I
5 will never be the same again” due to the trauma of separation.

6 23. Of Al Otro Lado’s clients, twenty-eight parents returned to the United States
7 on March 2, 2019 by reporting to the Calexico Port of Entry.

8 24. Eleven of the returning parents were issued notices to appear, released by
9 CBP within a week and reunified with their children shortly thereafter.

10 25. Seventeen of the parents were detained at the Imperial Regional Detention
11 Facility for forty two days. Between March 2 and March 28, 2019, I sent well over
12 fifty messages to ICE ERO and the Arlington Asylum Office in an attempt to
13 schedule the Credible Fear Interviews so that my clients could be reunified with
14 their children. On March 28, 2019, I was informed that the Asylum Office
15 Headquarters had instructed them not to schedule the Credible Fear Interviews for
16 these separated parents. After intervention from a member of Congress, the
17 interviews finally moved forward during the first week of April 2019.

18 26. All of the parents passed their Credible Fear Interviews, and all were released
19 on April 12, 2019.

20 27. All of the deported parents who have returned to the United States have been
21 reunified with their children, except for one. One mother, an indigenous language
22 speaker, was separated from her son in late 2017 and deported. Her son, also an
23 indigenous language speaker with extremely limited Spanish competency, aged out
24 of ORR custody in 2018 and was transferred to adult detention, after which his
25 mother was unable to speak with him. She knew nothing about his whereabouts for
26 five months. She submitted a petition for return and reunification through the *Ms.*
27 *L* settlement on December 15, 2018, while our organization attempted to locate
28 and make contact with her son. We were finally able to contact him in early

1 February 2019, at which time we discovered that he had requested voluntary
2 departure through an attorney. Al Otro Lado timely submitted an appeal, but our
3 client's son was removed to Guatemala. Our client is now in the United States and
4 we are assisting her son with a Motion to Reopen his case.

5 28. The rest of the parents who returned to the United States on March 2, 2019
6 have since reunified with their children. Based on my experience in representing
7 reunified families, I have observed that the longer children are separated from their
8 parents, the more traumatized they become, which makes reunification a complex
9 process. Parents who have recently reunified with their children consistently report
10 that their children display a host of behavioral issues, including frequent anger,
11 sadness, or an inability to concentrate. Younger children are terrified to leave their
12 parents' side, often refusing to go to school or engage in other outside activities.
13 Older children often express resentment toward their parents for "abandoning"
14 them in a detention system that was, at times, cruel and dehumanizing. Our clients
15 have expressed that they and their children have a critical need for mental health
16 services.

1 I declare under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct, based on my personal knowledge.
3 Executed in Tijuana, Baja California, Mexico on June 4, 2019.
4

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6 Erika Pinheiro
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Ex. C

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15 *Attorneys for Petitioner-Plaintiff*
16 **Admitted Pro Hac Vice*

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12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 Ms. L., et al.,

15 *Petitioners-Plaintiffs,*

16 v.

17 U.S. Immigration and Customs Enforcement
18 ("ICE"), et al.,

19 *Respondents-Defendants.*

Case No. 18-cv-00428-DMS-MDD

Date Filed: June 6, 2019

**DECLARATION OF DANIEL
GALINDO**

1 1. I make this declaration based on my personal knowledge except where I have
2 indicated otherwise. If called as a witness, I would testify competently and
3 truthfully to these matters.

4 2. I am a licensed attorney in the State of New York and in the State of
5 California, and am over the age of 18.

6 3. I am a Staff Attorney at the American Civil Liberties Union Immigrants'
7 Rights Project, and counsel to Plaintiffs in this case.

8 4. Attached hereto as exhibits are true and correct copies of the following:

9 Exhibit 1: December 15, 2018 Email from Lee Gelernt, "Ms. L Submission
10 re deported parents (1 of 6)"

11 Exhibit 2: February 20, 2019 Email from Sarah Fabian to Counsel for
12 Plaintiffs, "Response to Class Member Requests for Return Under the
13 Settlement Agreement."
14

15 I declare under penalty of perjury under the laws of the United States of
16 America that the foregoing is true and correct, based on my personal knowledge.
17 Executed in New York, NY, on June 5, 2019.

18 
19

20 Daniel Galindo
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Ex. 1

From: [Lee Gelernt](#)
To: [Stewart, Scott G. \(CIV\) \(Scott.G.Stewart@usdoj.gov\)](#); [Fabian, Sarah B \(CIV\) \(Sarah.B.Fabian@usdoj.gov\)](#); [Murley, Nicole \(CIV\) \(Nicole.Murley@usdoj.gov\)](#)
Cc: [Daniel Galindo](#); [Stephen Kang](#); [Anand Balakrishnan](#)
Subject: Ms. L submission re deported parents (email 1 of 6)
Date: Saturday, December 15, 2018 5:17:17 PM
Attachments: [Submission 1 \[8 Declarations\].zip](#)
[List of Declarations - 12.15.2018.XLSX](#)

Nicole, Sarah, Scott,

Pursuant to the *Ms. L* Final Settlement Agreement, I have attached a list of [deported parents](#) who we believe were denied a meaningful opportunity to present his or her claim for asylum or protection and for whom we believe return is warranted. Supporting evidence—generally in the form of signed declarations—is also attached here. Five subsequent emails with the additional declarations will immediately follow and additional declarations may be forthcoming.

Under the Settlement, Plaintiffs are required to submit “all evidence they would like considered by the government.” As previously noted, given that the relief being sought is a renewed opportunity to apply for asylum, many details of the parents’ claims for protection are not included in these declarations. Instead, the focus on the ways in which these [parents](#) were denied a fair opportunity to pursue their claim to such protection. Pursuant to 8 C.F.R. § 208.6, the information contained in these declarations is to be kept confidential and not disclosed to third parties without the express written permission of the declarant.

We look forward to the Government’s reply, and would request the opportunity to discuss any case the government believes does not warrant return.

Thanks,

Lee

Ex. 2

From: [Fabian, Sarah B. \(CIV\)](#)
To: [Lee Gelernt](#)
Cc: [Anand Balakrishnan](#); [Stephen Kang](#); [Stewart, Scott G. \(CIV\)](#); [Murley, Nicole \(CIV\)](#)
Subject: Response to Class Member Requests for Return Under the Settlement Agreement
Date: Wednesday, February 20, 2019 6:31:20 PM

Lee:

As you are aware, pursuant to the Settlement Agreement (Agreement), filed on September 12, 2018, and approved by the Court November 15, 2018, U.S. Immigration and Customs Enforcement (ICE) has agreed to consider cases in which plaintiffs' counsel believes the return of a particular removed *Ms. L* class member may be warranted in "rare and unusual" circumstances. As of the deadline of December 15, 2018, the Department of Justice (DOJ) had received the affidavits (and, where provided, supporting materials) submitted for 52 individuals ("Applicant Pool"), which it subsequently provided to ICE. ICE has now reviewed all materials submitted and advised that the documents submitted for the Applicant Pool did not provide sufficient information to permit adjudication. In keeping with the spirit of the Agreement, ICE is offering members of the Applicant Pool the opportunity to submit additional information in support of their respective requests for parole. Each should include:

- Completed [Form I-131, Application for Travel Document](#), for each beneficiary.
- Detailed explanation, as well as supporting documentation, of the reasons parole is being requested for the beneficiary. (See [Submitting Evidence](#) and [Guidance on Evidence for Certain Types of Humanitarian or Significant Public Benefit Parole Requests](#).) **This must include evidence of the relationship between the applicant and the child or children currently in the United States. Any documents requiring translation must include both the original and the certified translation.**
- Completed [Form I-134, Affidavit of Support \(PDF, 461 KB\)](#), for each beneficiary to show how each beneficiary will be financially supported in the United States. If there is more than one sponsor, each sponsor must submit a [Form I-134, Affidavit of Support \(PDF, 461 KB\)](#).
- Completed Form [G-28, Notice of Entry of Appearance as Attorney or Representative](#), for DHS to communicate with the attorney or representative about the applicant's case.

Also to keep with the spirit of the agreement, members of the Applicant Pool will not be required to submit the \$575.00 filing fee for all parole applicants or the \$85.00 biometrics fee for applicants 14-79 years of age.

Additionally, although humanitarian parole applications must normally be submitted in hard copy, ICE has agreed to accept electronic applications from members of the Applicant Pool. However, ICE reserves the right to request original documents if adjudicators believe that it

would be necessary to properly adjudicate the application.

In order to facilitate processing, ICE has created an electronic mailbox for the submission of application packages for the 52 members of the Applicant Pool:

mslparoleapplications@ice.dhs.gov. **No other humanitarian parole applications sent to this mailbox will be adjudicated.**

It is **highly recommended** that you review the information regarding humanitarian parole available at the following link: <https://www.uscis.gov/humanitarian/humanitarian-or-significant-public-benefit-parole-individuals-outside-united-states>

In keeping with the deadlines established in the settlement agreement, **please submit this additional information within 30 days**. Once ICE has received humanitarian parole packages from members of the Applicant Pool and processing has been initiated, ICE will send letters notifying you/your clients of that fact and, if necessary, requesting additional information or documentation. These letters are not guarantees that particular parole applications will be approved. Parole is an exercise of discretion that may not be appropriate in all cases.

Best,
Sarah

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